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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DAVID LEFKOWITH

Serial No.: 09/681,815

Filed: June 11, 2001

For: METHOD AND SYSTEM FOR PROVIDING REBATES TO AUTOMOBILE OWNERS
BASED ON PURCHASES MADE AT PARTICIPATING RETAILER LOCATIONS

Attorney Docket No.: FMC 1329 PUS / 200-1462

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop Appeal Brief - Patents
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Sir:

This is an Appeal Brief from the final rejection of claims 1-23 of the Office Action mailed on April 11, 2005 for the above-identified patent application.

I. REAL PARTY IN INTEREST

The real party in interest is Ford Motor Company ("Assignee"), a corporation organized and existing under the laws of the state of Delaware, and having a place of business at The American Road, Dearborn, Michigan 48121, as set forth in the assignment recorded in the U.S. Patent and Trademark Office on January 21, 2003 at Reel 011701/Frame 0688.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

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II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences related to the present appeal.

III. STATUS OF CLAIMS

Claims 1-23 have been rejected and are being appealed.

IV. STATUS OF AMENDMENTS

An amendment was filed on May 9, 2005 and entered by the Examiner subsequent to the final rejection. There are presently no pending amendments.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 recites a method for providing rebates to automobile owners based on purchases made at participating retailer locations. As shown in Figures 1 and 2, a customer 234 is provided an automobile wherein the automobile has been acquired by the customer. (Spec., p. 4, lines 10-12) The customer 234 is provided a customer identification badge (CIB) 210 that contains a plurality of customer information. (Spec., p. 4, lines 13-26) The customer information stored within the CIB 210 is electronically received at a point of sale computer as shown in Figures 1 and 2. (Spec., p. 6, lines 12-20).

The method includes electronically transmitting point of sale purchase information and the customer information over a computer network to a computer 220 at a rebate processing center 222 that is remote from the point of sale computer 214. (Spec., p. 6, lines 21-30). As shown in Figure 2, a rebate 232 is provided to the customer 234 wherein the rebate 232 is calculated based on the purchase information. After a predetermined time interval, if the customer 234 does not verify that he or she continues to possess the automobile, the customer identification badge 210 expires. (Spec., p. 10, lines 5-26)

Independent claim 13 recites a system for providing rebates to automobile owners based on purchases made at participating retailer locations. As shown in Figure 2, the system includes a first computer 204 that is configured to encode CIB 210 with customer information pertaining to the customer 234 who has acquired the automobile. This system also includes a second computer 214 located at a participating retailer location, wherein the second computer 214 is configured to retrieve the customer information from the CIB 210 at the point of sale. The second computer 214 is also configured to transmit the customer information and point of sale purchase information to a third computer 220 at a rebate processing center 222. A third computer 220 at rebate processing center 222 is configured to receive the point of sale purchase information and the customer information from the second computer 214. The third computer 220 is also configured to generate a rebate 232 for the customer 234 based on the purchase information. If the customer 234 does not verify that he or she continues to possess the automobile, the CIB 210 expires after a pre-determined time interval.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- A. Claims 1-3, 6-10, 13-15, and 18-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,537,314 issued to Kanter in view of U.S. Patent No. 6,029,102 issued to Elsman in view of U.S. Patent No. 6,356,877 issued to Schulden.
- B. Claims 4 and 16 stand rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,537,314 issued to Kanter in view of U.S. Patent No. 6,029,102 issued to Elsman in view of U.S. Patent No. 6,356,877 issued to Schulden, in view of U.S. Patent No. 5,612,527 issued to Ovadia.
- C. Claims 5 and 17 stand rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,537,314 issued to Kanter in view of U.S. Patent No. 6,029,102 issued to Elsman

in view of U.S. Patent No. 6,356,877 issued to Schulden in view of U.S. Patent No. 6,149,466 issued to Bricauld.

D. Claims 11, 12, 22, and 23 stand rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,537,314 issued to Kanter in view of U.S. Patent No. 6,029,102 issued to Elsman in view of U.S. Patent No. 6,356,877 issued to Schulden in view of U.S. Patent No. 5,359,182 issued to Schilling.

VII. ARGUMENT

A. **Claims 1-3, 6-10, 13-15, and 18-21 are patentable under 35 U.S.C. § 103(a) over Kanter in view of Elsman in view of Schulden.**

1. Claim 1

Claim 1 recites "providing a rebate to the customer wherein the rebate is calculated based on the purchase information, and wherein the customer identification badge expires after a predetermined time interval if the customer does not verify that he or she continues to possess the automobile." Neither Kanter, Elsman, Schulden or any combination thereof teaches or suggests the foregoing limitation. Accordingly, the Examiner has failed to demonstrate a *prima facie* case of obviousness to render claim 1 unpatentable.

The Examiner posited that Kanter in combination with Schulden teaches providing a rebate to the customer wherein the rebate is calculated based on the purchase information, and wherein the customer identification badge expires after a pre-determined time interval if the customer does not verify that he or she continues to possess the automobile. In particular, the Examiner posited that Kanter at col. 16, lines 42-52 combined with Schulden (with no specific citation) discloses the above limitation. Specifically, the Examiner states that ". . . in Schulden that the user must be the owner and must be in possession of the vehicle."

The Examiner further states that, "The user is verified as being in possession of the vehicle by verifying that an intact sticker is in place on the vehicle. Also, notice that in Schulden that the rebates expire after pre-determined time periods." (Office Action, p. 5)

Contrary to the Examiner's assertion, Schulden discloses an apparatus and process for automated payment for the attachment of advertising to a vehicle. Referring to col. 6, lines 23-33, Schulden discloses that the owner of a vehicle is *entitled to a credit* if a predetermined time period has passed and the contract between the vehicle owner and the advertising agency has not yet expired and if the advertising medium 16 is attached to the vehicle 12 in an intact state. Appellant submits that the passage of a predetermined time period in addition to the expiration of the contract as taught by Kanter are both related to the vehicle owner's *receipt of a credit*. The passage of a predetermined time period and the expiration of the contract between the vehicle owner and the advertising company are *not* related to the expiration of a customer identification badge. Therefore, the combination of Kanter and Schulden does not teach or suggests the foregoing limitation of independent claim 1.

Furthermore, the addition of Elsman does not cure the deficiencies of Kanter and Schulden. Elsman teaches a driver control display system for a vehicle that includes a driver identifier, a display and a controller. The driver identifier may be a keycard receiver that accepts keycards containing driver identifying information. (Abstract) Elsman does not suggest the foregoing limitations of independent claim 1. Accordingly, contrary to the Examiner's assertion, neither Kanter, Elsman, Schulden or any combination thereof teaches providing a rebate to the customer wherein the rebate is calculated based on the purchase price and wherein the *customer identification badge expires* after a predetermined time interval if the customer does not verify that he or she continues to possess the automobile. Thus, independent claim 1 is patentable over the combination of Kanter, Elsman, and Schulden.

2. Claim 2

Claim 2 depends from independent claim 1 and is likewise patentable for at least the foregoing reasons independent claim 1 is patentable. Furthermore, dependent claim 2 is patentable over the cited art for at least the following additional reasons. Dependent claim 2 recites the limitation of, "the customer identification badge is updated to reflect that the customer continues to possess the automobile." Neither Kanter, Elsman, Schulden or any combination thereof discloses the foregoing limitation and dependent claim 2 is patentable for at least the above reasons.

3. Claim 3

Claim 3 depends from independent claim 1 and contains all of the limitations of claim 1, as well as additional limitations which further distinguish it from the cited references. Therefore, claim 3 is patent over the combination of Kanter, Elsman, and Schulden.

4. Claim 6

Claim 6 depends from independent claim 1 and is likewise patentable for at least the foregoing reasons independent claim 1 is patentable. Claim 6 is also patentable over the combination of Kanter, Elsman, and Schulden for at least the following additional reasons. Specifically, dependent claim 6 recites, "the rebate comprises a check mailed to the customer at quarterly annual time intervals." The Examiner suggests that col. 16, lines 47-52 and col. 25, lines 5-15 disclose the rebate comprising a check mailed to the customer at quarterly annual time intervals. Referring to col. 16, lines 47-52, Kanter teaches the realization of *multi-level credit and/or awards* at multiple sponsoring companies. Referring to col. 25, lines 5-15, Kanter teaches *billing procedures* that include periodic mailing of balance due statements. As such, the cited excerpts from col. 16 and col. 25 have diverging purposes. Col. 16, lines 47-52 concerns the realization of *awards* while col. 25, lines 5-15 concerns *billing* procedures that include periodic mailing of balance due statements. Hence, Kanter does not teach the limitation of a rebate comprising a check mailed to the customer at quarterly annual time

intervals. The addition of Elsman and Schulden do not cure the deficiencies of Kanter. Thus, dependent claim 6 is patentable over the cited art for at least the above additional reasons.

5. Claims 7-10

Claims 7-10 depend from independent claim 1 and contain all of the limitations of claim 1, as well as additional limitations which further distinguish these claims from the cited references. Therefore, claims 7-10 are patentable over the combination of Kanter, Elsman, and Schulden.

6. Claim 13

Claim 13 recites the limitation of generating, "a rebate for the customer based on the purchase information, wherein the customer identification badge expires after a pre-determined time interval if the customer does not verify that he or she continues to possess the automobile." As discussed with regards to independent claim 1, the instant limitation of independent claim 13 is not taught, suggested, or disclosed by the cited art. Accordingly, independent claim 13 is patentable over the combination of Kanter, Elsman, and Schulden.

7. Claims 14

Claims 14 depends from independent claim 13 and contain all of the limitations of claim 13, as well as additional limitations which further distinguish these claims from the cited references. Particularly, dependent claim 14 recites the limitation of, "the customer identification badge is updated to reflect that the customer continues to possess the automobile." Neither Kanter, Elsman, Schulden or any combination thereof discloses the foregoing limitations of dependent claim 14 and dependent claim 14 is patentable for at least the above reasons.

8. Claims 15 and 18-21

Claims 15 and 18-21 depend from independent claim 13 and contain all of the limitations of claim 13, as well as additional limitations which further distinguish these claims from the cited references. Therefore, claims 15 and 18-21 are patentable over the combination of Kanter, Elsman, and Schulden.

B. Claims 4 and 16 are patentable under 35 U.S.C. § 103(a) over Kanter in view of Elsman in view of Schulden in view of Ovadia.

1. Claim 4

Claim 4 depends from independent claim 1 and contains all of the limitations of claim 1, as well as additional limitations which further distinguish it from the cited references. The addition of Ovadia does not cure the deficiencies of Kanter, Elsman and Schulden. Therefore, claim 4 is patentable over the combination of Kanter, Elsman, Schulden and Ovadia.

2. Claim 16

Claim 16 depends from independent claim 13 and contains all of the limitations of claim 13, as well as additional limitations which further distinguish it from the cited references. The addition of Ovadia does not cure the deficiencies of Kanter, Elsman and Schulden. Therefore, claim 16 is patentable over the combination of Kanter, Elsman, and Schulden and Ovadia.

C. Claims 5 and 17 are patentable under 35 U.S.C. § 103(a) over Kanter in view of Elsman in view of Schulden in view of Bricauld.

1. Claim 5

Claim 5 depends from independent claim 1 and contains all of the limitations of claim 1, as well as additional limitations which further distinguish it from the cited

references. The addition of Bricauld does not cure the deficiencies of Kanter, Elsman and Schulden. Therefore, claim 4 is patentable over the combination of Kanter, Elsman, and Schulden and Bricauld.

2. Claim 17

Claim 17 depends from independent claim 13 and contains all of the limitations of claim 13, as well as additional limitations which further distinguish it from the cited references. The addition of Bricauld does not cure the deficiencies of Kanter, Elsman and Schulden. Therefore, claim 17 is patentable over the combination of Kanter, Elsman, and Schulden and Bricauld.

D. Claims 11, 12, 22, and 23 are patentable under 35 U.S.C. § 103(a) over Kanter in view of Elsman in view of Schulden in view of Schilling.

1. Claims 11 and 12

Claims 11 and 12 depend from independent claim 1 and contain all of the limitations of claim 1, as well as additional limitations which further distinguish these claims from the cited references. The addition of Schilling does not cure the deficiencies of Kanter, Elsman, and Schulden. Therefore, claims 11 and 12 are patentable over the combination of Kanter, Elsman, and Schulden and Schilling.

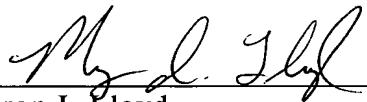
2. Claims 22 and 23

Claims 22 and 23 depend from independent claim 13 and contain all of the limitations of claim 13, as well as additional limitations which further distinguish these claims from the cited references. The addition of Schilling does not cure the deficiencies of Kanter, Elsman, and Schulden. Therefore, claims 22 and 23 are patentable over the combination of Kanter, Elsman, Schulden and Schilling.

The fee of \$500 as applicable under the provisions of 37 C.F.R. § 41.20(b)(2) is enclosed. Please charge any additional fee or credit any overpayment in connection with this filing to Ford Global Technologies LLC, Deposit Account No. 06-1510.

Respectfully submitted,

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Enclosure - Appendices

VIII. CLAIMS APPENDIX

1. A method for providing rebates to automobile owners based on purchases made at participating retailer locations, the method comprising:

providing an automobile to a customer wherein the automobile has been acquired by the customer;

the customer with a customer identification badge containing a plurality of customer information;

electrically receiving the customer information stored within the customer identification badge at a point of sale computer;

electrically transmitting point of sale purchase information and the customer information over a computer network to a computer at a rebate processing center remote from the point of sale computer; and

providing a rebate to the customer wherein the rebate is calculated based on the purchase information, and wherein the customer identification badge expires after a pre-determined time interval if the customer does not verify that he or she continues to possess the automobile.

2. The method of claim 1, wherein the customer identification badge is updated to reflect that the customer continues to possess the automobile.

3. The method of claim 1 wherein the customer identification badge comprises a magnetically encoded wallet card.

4. The method of claim 1 wherein the customer identification badge comprises a bar code.

5. The method of claim 1 wherein the customer identification badge comprises a persistent memory module having input and output capabilities wherein the module is attached to the automobile.

6. The method of claim 1 wherein the rebate comprises a check mailed to the customer at quarterly annual time intervals.

7. The method of claim 1 wherein the rebate is electronically deposited into a bank account specified by the customer.

8. The method of claim 1 wherein the purchase information comprises a rebate amount that a participating retailer is willing to pay.

9. The method of claim 1 wherein the retailer provides payment to the rebate processing center to pay for the rebate.

10. The method of claim 1 additionally comprising transmitting the customer information from the automobile dealership to the rebate processing center.

11. The method of claim 1 wherein the automobile is leased to the customer.

12. The method of claim 1 wherein the automobile is rented to the customer.

13. A system for providing rebates to automobile owners based on purchases made at participating retailer locations, the system comprising:

a first computer configured to encode a customer identification badge with customer information pertaining to a customer who has acquired an automobile;

a second computer at a participating retailer location, the second computer configured to:

(i) retrieve the customer information from the customer identification badge at a point of sale; and

(ii) transmit the customer information and point of sale purchase information to a third computer at a rebate processing center; and

a third computer at a rebate processing center, the third computer configured to:

(i) receive the point of sale purchase information and the customer information from the second computer; and

(ii) generate a rebate for the customer based on the purchase information, wherein the customer identification badge expires after a pre-determined time interval if the customer does not verify that he or she continues to possess the automobile.

14. The system of claim 13 wherein the customer identification badge is updated to reflect that the customer continues to possess the automobile.

15. The system of claim 13 wherein the customer identification badge comprises a magnetically encoded wallet card.

16. The system of claim 13 wherein the customer identification badge comprises a bar code.

17. The system of claim 13 wherein the customer identification badge comprises a persistent memory module having input and output capabilities wherein the module is attached to the automobile.

18. The system of claim 13 wherein the third computer is additionally configured to facilitate electronic direct deposit of the rebate into a bank account specified by the customer.

19. The system of claim 13 wherein the purchase information comprises a rebate amount that the participating retailer is willing to pay.

20. The system of claim 13 wherein the second computer at the retailer location is additionally configured to facilitate the retailer's electronic payment to the rebate processing center for the rebate.

21. The system of claim 13 wherein the first computer is additionally configured to transmit the customer information to the third computer at the rebate processing center.

22. The system of claim 13 wherein the first computer is configured to encode a customer identification badge with customer information pertaining to a customer who has leased an automobile from the dealer.

23. The method of claim 13 wherein the first computer is configured to encode a customer identification badge with customer information pertaining to a customer who has rented an automobile from the dealer.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.